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13
14 **UNITED STATES DISTRICT COURT**
FOR THE EASTERN DISTRICT OF CALIFORNIA

15 Joel Leal, an individual,

16 Plaintiff,

17 v.

18 Field Asset Services, Inc.; Field Asset Services,
19 LLC; Xome Field Services LLC; Cyprexx
Services, LLC; and DOES 1-10,

20 Defendants.

21 Case No.: 1:23-cv-01272-JLT-CDB

22
23 **STIPULATION RE DISMISSAL**
AND REMAND; [PROPOSED]
ORDER

1 Plaintiff Joel Leal and Defendants Field Asset Services, Inc., Field Asset Services, LLC,
2 Xome Field Services LLC, and Cyprexx Services, LLC (collectively, “FAS” or “Defendants”) do
3 hereby stipulate as follows:

4 1. Plaintiff is a former class member in the action entitled *Bowerman v. Field Asset*
5 *Services, LLC et al.*, Case 3:13-cv-00057-WHO (N.D. Cal.) (the “*Bowerman Action*”). The District
6 Court, the Honorable William H. Orrick presiding, certified the Class and granted summary
7 judgment on liability in their favor, after which a jury found for ten bellwether Class members. On
8 July 5, 2022, the Ninth Circuit issued an order decertifying the Class and reversing the Court’s
9 Orders granting summary judgment and awarding attorneys’ fees. On February 14, 2023, the Ninth
10 Circuit denied a subsequent Petition for Rehearing and issued an amended Opinion. The Circuit
11 issued mandate on February 22, 2023. Pursuant to the District Court’s orders, on April 14, 2023,
12 notice was sent to all Class members, informing them of the developments in the case and tolling
13 their claims through June 13, 2023.

14 2. On June 13, 2023, Plaintiff filed the instant action in state court, which was removed by
15 Defendants on August 24, 2023. On August 31, 2023, Defendants filed a motion to dismiss.

16 3. Thereafter the parties met and conferred and agreed that Plaintiff would dismiss with
17 prejudice his Labor Code claims because Plaintiff did not perform work within the statute of
18 limitations, even with tolling, for those claims.

19 4. The parties also agreed to request that this Court remand the remaining cause of action
20 under the Unfair Competition Law, Business & Professions Code §§ 17200 *et seq.* (“UCL”), which
21 has a longer statute of limitations. Remand is proper because the Ninth Circuit has held that federal
22 courts lack equitable jurisdiction over UCL claims where there is an adequate remedy at law, but
23 state courts may permit recovery under the UCL. *See Sonner v. Premier Nutrition Corp.*, 971 F.3d
24 834, 844 (9th Cir. 2020) (*Sonner I*) and *Guzman v. Polaris Indus., Inc.*, 49 F.4th 1308 (9th Cir.
25 2022), *cert. denied sub nom. Polaris Indus., Inc. v. Albright*, No. 22-987, 2023 WL 3937623 (June
26 12, 2023), *Sonner v. Premier Nutrition Corp.*, 49 F.4th 1300 (9th Cir. 2022) (*Sonner II*). Judge
27 Orrick has held that the same UCL claims against Defendants brought by other former Class
28

1 members in the *Bowerman* Action must be remanded or dismissed without prejudice to refiling in
2 state court. *See Order on Motions to Dismiss in Related Cases, Bowerman v. Field Asset Servs.,*
3 *Inc.*, 3:13-cv-00057-WHO, 2023 WL 5111961, at *6–8 (N.D. Cal. Aug. 9, 2023).

4 5. Accordingly, the parties hereby agree that Plaintiff’s First, Second and Third Causes of
5 Action under the Labor Code should be dismissed with prejudice, and Plaintiff’s Fourth Cause of
6 Action under the UCL should be remanded to the state court.

7 IT IS SO STIPULATED.

8 DATED: September 12, 2023

9 Respectfully submitted,
OLIVIER & SCHREIBER LLP

10 */s/ Christian Schreiber*
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Attorneys for Plaintiff

DATED: September 12, 2023

Respectfully submitted,
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[PROPOSED] ORDER

Good cause appearing, it is hereby ordered that Plaintiff's First, Second and Third Causes of Action are DISMISSED with prejudice. Plaintiff's Fourth Cause of Action under the Unfair Competition Law, Business & Professions Code §§ 17200 et seq. is REMANDED to the state court.

IT IS SO ORDERED.

Dated: **September 13, 2023**

Jennifer L. Thurston
UNITED STATES DISTRICT JUDGE